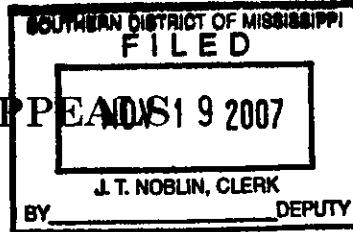


IN THE UNITED STATES COURT OF APPEALS
FOR THE FIFTH CIRCUIT



No. 07-60679

U.S. COURT OF APPEALS
FILED

IN RE: MICHAEL SHEFFIELD

NOV 06 2007

Movant

CHARLES R. FULDRIDGE III
CLERK

Motion for an order authorizing
the United States District Court for the Southern
District of Mississippi to consider
a successive 28 U.S.C. § 2254 application

Before WIENER, DeMOSS, and PRADO, Circuit Judges.

PER CURIAM:

Michael Sheffield, Mississippi prisoner # 31673, has filed a motion for authorization to file a successive 28 U.S.C. § 2254 application challenging his 1998 jury-trial conviction of burglary of a dwelling and the resulting sentence as a habitual offender to a term of life imprisonment without parole. Sheffield argues that his indictment erroneously charged him with burglary of a dwelling when he should have been charged with burglary of a building other than a dwelling.

A claim presented in a second or a successive habeas corpus application that was presented in a prior application shall be dismissed. 28 U.S.C. § 2244(b)(1). A claim presented in a second or successive habeas corpus application that was not presented in a prior application shall be dismissed unless the applicant shows that the claim relies upon either: (1) "a new rule of constitutional law, made retroactive to cases on collateral review by the Supreme

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New Orleans, Louisiana 11/6/07

Court, that was previously unavailable;” or (2) facts that “could not have been discovered previously through the exercise of due diligence” and which “would be sufficient to establish by clear and convincing evidence that, but for constitutional error, no reasonable factfinder would have found the applicant guilty of the underlying offense.” § 2244(b)(2)(A), (B).

Sheffield has not made the showing required for authorization to file a successive § 2254 application. Accordingly, IT IS ORDERED that his motion is DENIED.